



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

September 16, 2011

The Honorable John Boehner
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Enclosed for the consideration of Congress and referral to the appropriate committees is draft legislation entitled the "Pipeline and Hazardous Material Transportation Safety Reauthorization Act of 2011."

With respect to reauthorizing the U.S. Department of Transportation's hazardous materials transportation safety program, ensuring the safe transport of hazmat by air, rail, highway, and water is a top priority. The program has a broad range of responsibilities including evaluating safety risks; developing and enforcing standards for transporting hazardous materials; educating shippers and carriers; investigating hazmat incidents and failures; conducting research; and providing grants to improve emergency response to incidents. The hazmat legislative proposal incorporates legislative changes that will make the Pipeline and Hazardous Materials Safety Administration's safety programs more effective by enhancing our safety oversight and preparing the hazmat transportation safety program for challenges posed by next-generation hazmat. The specific legislative proposals are described more fully in the enclosed section-by-section analysis.

With respect to reauthorizing the Department's pipeline safety program, the Nation's pipelines, our energy highways, are a significant part of our country's critical infrastructure and are essential to our economy and our way of life. More than 2.5 million miles of natural gas and hazardous liquid pipelines crisscross the country transporting nearly two-thirds of the energy products we consume annually. Pipelines are by far the safest way to transport large volumes of fuels and other hazardous products over long distances in short amounts of time. As the recent gas pipeline failure near San Bruno, California, has shown, however, the Department needs stronger authority in several key areas of its pipeline safety program.

Ensuring the safety and reliability of the Nation's hazardous liquid and natural gas pipeline network is an enormous task. Strong oversight has been an important strategy in strengthening pipeline safety. The enclosed legislative proposal strengthens our enforcement authority over pipeline operators, lays the groundwork for expanding integrity management regulations beyond existing high consequence areas, closes regulatory gaps on gathering pipelines, and makes other important improvements including ensuring that biofuel pipelines associated with clean energy initiatives will be safely constructed and operated.

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The Honorable John Boehner

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,

Ray LaHood

Enclosures



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

September 16, 2011

The Honorable Joseph R. Biden, Jr.
President of the Senate
Washington, DC 20510

Dear Mr. President:

Enclosed for the consideration of Congress and referral to the appropriate committees is draft legislation entitled the "Pipeline and Hazardous Material Transportation Safety Reauthorization Act of 2011."

With respect to reauthorizing the U.S. Department of Transportation's hazardous materials transportation safety program, ensuring the safe transport of hazmat by air, rail, highway, and water is a top priority. The program has a broad range of responsibilities including evaluating safety risks; developing and enforcing standards for transporting hazardous materials; educating shippers and carriers; investigating hazmat incidents and failures; conducting research; and providing grants to improve emergency response to incidents. The hazmat legislative proposal incorporates legislative changes that will make the Pipeline and Hazardous Materials Safety Administration's safety programs more effective by enhancing our safety oversight and preparing the hazmat transportation safety program for challenges posed by next-generation hazmat. The specific legislative proposals are described more fully in the enclosed section-by-section analysis.

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Ensuring the safety and reliability of the Nation's hazardous liquid and natural gas pipeline network is an enormous task. Strong oversight has been an important strategy in strengthening pipeline safety. The enclosed legislative proposal strengthens our enforcement authority over pipeline operators, lays the groundwork for expanding integrity management regulations beyond existing high consequence areas, closes regulatory gaps on gathering pipelines, and makes other important improvements including ensuring that biofuel pipelines associated with clean energy initiatives will be safely constructed and operated.

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Ray LaHood

Enclosures

A Bill

To reauthorize the hazardous material safety program, ensure the safe transport of hazardous material in all modes of transportation, and reduce the risks to life and property inherent in the commercial transportation of hazardous material, and for other purposes.

To reauthorize the pipeline safety program, to provide for enhanced safety and environmental protection in pipeline transportation, to provide for enhanced reliability in the transportation of the Nation's energy products by pipeline, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**--This Act may be cited as the "Pipeline and Hazardous Material Transportation Safety Reauthorization Act of 2011".

(b) **AMENDMENT OF TITLE 49, UNITED STATES CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) **TABLE OF CONTENTS.**--The table of contents of this Act is as follows:

Sec. 1. Short title; Table of Contents.

Title I--Hazardous Material Transportation Safety

Sec. 101. Short title; amendment of title 49, United States Code.
Sec. 102. Civil penalty.
Sec. 103. Reporting of fees.
Sec. 104. Hazardous Material Enforcement Training Program.
Sec. 105. Paperless Hazard Communications Program.
Sec. 106. Planning and training grants, monitoring, and review.
Sec. 107. Special permits, approvals, and exclusions.
Sec. 108. Hazardous Material Technical Assessment, Research and Development, and Analysis Program.
Sec. 109. Administrative.
Sec. 110. Authorization of appropriations.

Title II--Pipeline Safety Program

Sec. 201. Short Title; Amendment of title 49, United States Code
Sec. 202. Civil penalties.
Sec. 203. Clarifications.
Sec. 204. Pipeline infrastructure data collection.
Sec. 205. International cooperation and consultation.
Sec. 206. Gas and hazardous liquid gathering lines.

- Sec. 207. Transportation-related oil flow lines.
- Sec. 208. Alaska project coordination and cost recovery.
- Sec. 209. Cost recovery for design reviews.
- Sec. 210. Special permits.
- Sec. 211. Class location and integrity management.
- Sec. 212. Biofuel pipelines.
- Sec. 213. Carbon dioxide pipelines.
- Sec. 214. Study of non-petroleum hazardous liquids transported by pipeline.
- Sec. 215. Authorization of appropriations.

Title I--Hazardous Material Transportation Safety

SEC. 101. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) **SHORT TITLE.**--This title may be cited as the "Hazardous Material Transportation Safety Act of 2011".

(b) **AMENDMENT OF TITLE 49, UNITED STATES CODE.**--Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 102. CIVIL PENALTY.

Section 5123 is amended--

- (1) in subsection (a)(1), by striking "50,000" and inserting "100,000";
- (2) in subsection (a)(2), by striking "100,000" and inserting "250,000";

and

- (3) by adding at the end the following:

"(h) **PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.**--The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under section 5121(c) or 5121(i) of this title.

"(i) **PROHIBITION ON HAZARDOUS MATERIAL OPERATIONS AFTER NONPAYMENT OF PENALTIES.**--A person subject to the jurisdiction of the Secretary under this chapter for whom a civil penalty is assessed under this chapter and who does not pay the penalty or fails to arrange and abide by an acceptable payment plan for the penalty may not conduct any activity regulated under this chapter beginning on the 91st day after the date specified by order of the Secretary for payment of the penalty."

SEC. 103. REPORTING OF FEES.

Section 5125(f)(2) is amended by striking ", upon the Secretary's request," and inserting "biennially".

SEC. 104. HAZARDOUS MATERIAL ENFORCEMENT TRAINING PROGRAM.

(a) IN GENERAL.--Chapter 51 is amended by inserting the following after Section 5128:

"Sec. 5129. Hazardous material enforcement training program

"(a) IN GENERAL.--The Secretary of Transportation shall carry out a multimodal hazardous material enforcement training program--

"(1) to develop uniform performance standards for training hazardous material inspectors and investigators, building upon current training programs;

"(2) to train hazardous material inspectors and investigators on how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and

"(3) to train hazardous material inspectors and investigators on how to identify noncompliance with regulations issued under this chapter and take appropriate enforcement action.

"(b) STANDARDS AND GUIDELINES.--Under the program, the Secretary may develop--

"(1) guidelines for hazardous material inspector and investigator qualifications;

"(2) best practices and standards for hazardous material inspector and investigator training programs; and

"(3) standard protocols to coordinate investigation efforts among Federal, State, and local jurisdictions on accidents or incidents involving the transportation of hazardous material.

"(c) AVAILABILITY.--The Secretary may make the standards, protocols, and findings of the program described in this section--

"(1) mandatory for the Department's multimodal personnel conducting hazardous material enforcement inspections or investigations;

"(2) mandatory for State employees who conduct federally funded compliance reviews, inspections, or investigations; and

"(3) available to Federal, State, and local hazardous material safety enforcement personnel."

(b) CONFORMING AMENDMENT.--The analysis of Chapter 51 is amended by inserting after the item relating to Section 5128 the following:

"5129. Hazardous material enforcement training program."

SEC. 105. PAPERLESS HAZARD COMMUNICATIONS PROGRAM.

(a) IN GENERAL.--Chapter 51 is amended by inserting the following after Section 5110:

"Sec. 5111. Paperless hazard communications program

"(a) IN GENERAL.--The Secretary of Transportation may conduct pilot projects to evaluate the feasibility and effectiveness of using paperless hazard communications systems.

"(b) ENHANCED INCIDENT COMMUNICATIONS.--The Secretary, upon developing a thorough understanding of the technology and capability available, and in consultation with modal agencies as appropriate, shall institute a paperless hazard communications program to enhance the effectiveness of communications during incidents involving hazardous materials.

"(c) PAPERLESS HAZARD COMMUNICATIONS SYSTEM DEFINED.--In this section, the term 'paperless hazard communications system' means the use of advanced communications methods, including wireless communications devices, to convey hazard information among all parties in the transportation chain, including emergency responders and law enforcement personnel."

(b) CONFORMING AMENDMENT.--The analysis for chapter 51 is amended by striking the item relating to section 5111 and inserting the following:

"5111. Paperless hazard communications program."

SEC. 106. PLANNING AND TRAINING GRANTS, MONITORING, AND REVIEW.

Section 5116 is amended--

(1) in subsection (i)(4), by striking "2" and inserting "4"; and

(2) in subsection (k), by striking "annually" and inserting "as appropriate".

SEC. 107. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.

(a) IN GENERAL.--Section 5117 is amended to read as follows:

"Sec. 5117. Special permits, approvals, and exclusions

"(a) AUTHORITY TO ISSUE SPECIAL PERMITS.--

"(1) CONDITIONS.--As provided under procedures prescribed by regulation, the Secretary of Transportation may issue, modify, or terminate a special permit authorizing a variance from this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title to a person performing a function regulated by the Secretary under section 5103(b)(1) of this title in a way that achieves a safety level--

"(A) at least equal to the safety level required under this chapter; or

"(B) consistent with the public interest and this chapter, if a required safety level does not exist.

"(2) FINDINGS REQUIRED--

"(A) IN GENERAL.--Prior to issuing, renewing, or modifying a special permit or granting party status to a special permit, the Secretary shall determine that the person is fit, willing, and able to conduct the activity authorized by such permit in a manner that achieves the level of safety required under paragraph (1).

"(B) CONSIDERATIONS.--In making the determination under subparagraph (A), the Secretary shall consider the person's safety history (including prior compliance history), accident and incident history, and any other information the Secretary considers appropriate to make such a determination.

"(3) EFFECTIVE PERIOD.--A special permit issued under this section shall be for an initial period of not more than 2 years and may be renewed by the Secretary upon application for successive periods of not more than 4 years each or, in the case of a special permit relating to section 5112 of this title, for an additional period of not more than 2 years.

"(b) APPLICATIONS--

"(1) REQUIRED DOCUMENTATION.--When applying for a special permit or renewal or modification of a special permit or requesting party status to a special permit under this section, the Secretary shall require the person to submit an application that contains, at a minimum, a detailed description of the person's request, a listing of the person's current facilities and addresses where the special permit will be utilized, a safety analysis prescribed by the Secretary that justifies the special permit, documentation to support the safety analysis, a certification of safety fitness, and verification of registration as required by section 5108 of this title.

"(2) PUBLIC NOTICE.--The Secretary shall publish in the Federal Register notice that an application for a special permit has been filed and shall provide the public an opportunity to inspect and comment on the application.

"(3) SAVINGS CLAUSE.--This subsection does not require the release of information protected by law from public disclosure.

"(c) COORDINATE AND COMMUNICATE WITH MODAL CONTACT OFFICIALS.--

"(1) IN GENERAL.--In evaluating applications under subsection (b) and making the findings and determinations under subsections (a), (e), and (h), the Administrator of the Pipeline and Hazardous Materials Safety Administration shall consult, coordinate, or notify the modal contact official responsible for the specified mode of transportation that will be utilized under a special permit or approval prior to issuing, modifying, or renewing the special permit, granting party status to the special permit, or issuing or renewing the special permit or approval.

"(2) MODAL CONTACT OFFICIAL DEFINED.--In this section, the term 'modal contact official' means--

"(A) the Administrator of the Federal Aviation Administration;

"(B) the Administrator of the Federal Motor Carrier Safety;

"(C) the Administrator of the Federal Railroad Administration; and

"(D) the Commandant of the Coast Guard.

"(d) APPLICATIONS TO BE DEALT WITH PROMPTLY.--The Secretary shall issue, modify, renew, or grant party status to a special permit for which a request was filed under this section, or deny the issuance, modification, renewal, or grant, on or before the last day of the 180-day period beginning on the first day of the month following the date of the filing of the request, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the special permit is delayed, along with an estimate of the additional time necessary before the decision is made.

"(e) EMERGENCY PROCESSING OF SPECIAL PERMITS.--

"(1) FINDINGS REQUIRED.--The Secretary may grant a request for emergency processing of a special permit only if the Secretary finds--

"(A) it is necessary for national security purposes;

"(B) that processing on a routine basis under this section would result in significant injury to persons or property; or

"(C) it is necessary to prevent significant economic loss or damage to the environment that could not be prevented if the application were processed on a routine basis.

"(2) WAIVER OF FITNESS TEST.--The Secretary may waive the requirement under subsection (a)(2) for a request for which the Secretary makes a finding under paragraph (1)(A) or (1)(B) of this subsection.

"(3) NOTIFICATION.--Not later than 90 days after the date of issuance of a special permit under this subsection, the Secretary shall publish in the Federal Register a notice of issuance with a statement of the basis for the finding of emergency and the scope and duration of the special permit.

"(4) EFFECTIVE PERIOD.--A special permit issued under this subsection shall be effective for a period of not to exceed 180 days.

"(f) EXCLUSIONS--

"(1) IN GENERAL.--The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter--

"(A) a public vessel (as defined in section 2101 of title 46);

"(B) a vessel exempted under section 3702 of title 46 or from chapter 37 of title 46; and

"(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221, et seq.).

"(2) FIREARMS.--This chapter and regulations prescribed under this chapter do not prohibit--

"(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

"(B) transportation of a firearm or ammunition in commerce.

"(g) LIMITATION ON AUTHORITY.--Unless the Secretary decides that an emergency exists, a special permit or renewal granted under this section is the only way a person subject to this chapter may be granted a variance from this chapter.

"(h) APPROVALS.--

"(1) FINDINGS REQUIRED.--

"(A) IN GENERAL.--Prior to issuing an approval or granting renewal of an approval pursuant to part 107 of title 49, Code of Federal Regulations, the Secretary shall determine that the person is fit, willing, and able to conduct the activity authorized by the approval in a manner that achieves the level of safety required under subsection (a)(1).

"(B) CONSIDERATIONS.--In making the determination under subparagraph (A), the Secretary shall consider the person's safety history (including prior compliance history), accident and incident history, and any other information the Secretary considers appropriate to make such a determination.

"(2) REQUIRED DOCUMENTATION.--When applying for an approval or renewal or modification of an approval under this section, the Secretary shall require the person to submit an application that contains, at a minimum, a detailed description of the person's request, a listing of the person's current facilities and addresses where the approval will be utilized, a safety analysis prescribed by the Secretary that justifies the approval, documentation to support the safety analysis, a certification of safety fitness, and verification of registration as required by section 5108 of this title.

"(3) SAVINGS CLAUSE.--This subsection does not require the release of information protected by law from public disclosure.

"(i) NONCOMPLIANCE.--The Secretary may modify, suspend, or terminate a special permit or approval if the Secretary finds that the person who was granted the

special permit or approval has violated the special permit or approval or the regulations issued under this chapter in a manner demonstrating that the person is not fit to conduct the activity authorized by the special permit or approval.

"(j) **CRITERIA AND PROCEDURES.**--Not later than 120 days after the date of the enactment of this subsection, the Secretary shall--

"(1) develop and implement written standard operating procedures to support administration of the special permit and approval programs;

"(2) update the procedures periodically; and

"(3) make the procedures available to the public on the Department of Transportation Internet Web site.

"(k) **FEES.**--

"(1) **AUTHORIZATION.**--The Secretary is authorized to collect a reasonable fee, to the extent and in such amounts as provided in advance in appropriations acts, for the administration of the special permits and approvals programs. The fees shall be deposited into a Hazardous Materials Approvals and Special Permits Fund, which shall remain available until expended.

"(2) **ESTABLISHMENT AND USE OF FEES.**--There is established a Hazardous Materials Approvals and Special Permits Fund in the Department of Treasury of the United States. Amounts collected from fees under paragraph (1) shall be available for administration of the special permits and approvals programs.

"(3) **FEES CREDITED AS OFFSETTING RECEIPTS.**--Notwithstanding section 3302 of title 31, any fee authorized to be collected under this subsection shall be credited as offsetting receipts, and remain available until expended.

"(4) **REGULATIONS.**--The Secretary, after providing notice and an opportunity for public comment, shall issue regulations to implement this subsection."

(b) **CONFORMING AMENDMENT.**--The analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

"5117. Special permits, approvals, and exclusions."

SEC. 108. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT, RESEARCH AND DEVELOPMENT, AND ANALYSIS PROGRAM.

(a) **IN GENERAL.**--Chapter 51 is amended by inserting the following after section 5117:

"Sec. 5118. Hazardous material technical assessment, research and development, and analysis program

"(a) **RISK REDUCTION.**--The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program aimed at reducing risks associated with the transportation of hazardous material and identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

"(b) **COOPERATION.**--In carrying out subsection (a), the Secretary may work cooperatively with regulated and other entities (including shippers, carriers, emergency responders, state and local officials, and academic institutions).".

(b) **CONFORMING AMENDMENT.**--The analysis of Chapter 51 is amended by inserting after the item relating to Section 5117 the following:

"5118. Hazardous material technical assessment, research and development, and analysis program.".

SEC. 109. ADMINISTRATIVE.

Section 5121(c)(1) is amended by--

- (1) striking "and" at the end of subparagraph (E);
- (2) striking "." at the end of subparagraph (F) and inserting "; and"; and
- (3) inserting after subparagraph (F) the following:

"(G) may take actions as related to activities that are not in conformance with the regulations for safe transportation described in sections 5103(b)(1) of this title.".

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 is amended to read as follows:

"Sec. 5128. Authorization of appropriations

"(a) **IN GENERAL.**--In order to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119), the following amounts are authorized to be appropriated to the Secretary:

- "(1) For fiscal year 2012, \$50,089,000.
- "(2) For fiscal year 2013, such sums as necessary.
- "(3) For fiscal year 2014, such sums as necessary.
- "(4) For fiscal year 2015, such sums as necessary.
- "(5) For fiscal year 2016, such sums as necessary.
- "(6) For fiscal year 2017, such sums as necessary.

"(b) **HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.**--There shall be available to the Secretary, from the account established under section 5116(i) of this title, for each of fiscal years 2012 through 2017 the following:

"(1) To carry out section 5115 of this title, \$188,000.

"(2) To carry out sections 5116(a) and 5116(b) of this title, \$21,800,000, except that no less than \$13,650,000 shall be available to carry out section 5116(b).

"(3) To carry out section 5116(f), \$150,000.

"(4) To publish and distribute the Emergency Response Guidebook under section 5116(i)(3), \$625,000.

"(5) To carry out section 5116(j), \$1,000,000.

"(c) HAZMAT TRAINING GRANTS.--There shall be available to the Secretary, from the account established pursuant to section 5116(i) of this title, to carry out section 5107(e) of this title \$4,000,000 for each of fiscal years 2012 through 2017.

"(d) CREDITS TO APPROPRIATIONS.--

"(1) EXPENSES.--The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

"(2) AVAILABILITY OF AMOUNTS.--Amounts made available by or under this section shall remain available until expended."

Title II--Pipeline Safety Program

SEC. 201. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.--This title may be cited as the "Strengthening Pipeline Safety and Enforcement Act of 2011".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.--Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 202. CIVIL PENALTIES.

(a) PENALTIES FOR MAJOR CONSEQUENCE VIOLATIONS.--Section 60122 is amended by redesignating subsections (c) through (f) as subsections (d) through (g), respectively, and inserting the following after subsection (b):

"(c) PENALTIES FOR MAJOR CONSEQUENCE VIOLATIONS.--

"(1) IN GENERAL.--A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has committed a

major consequence violation of section 60114(b), 60114(d), or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$250,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of major consequence violations is \$2,500,000.

"(2) PENALTY CONSIDERATIONS.--In determining the amount of a civil penalty for a major consequence violation under this subsection, the Secretary shall consider the same factors as prescribed in subsection (b).

"(3) DEFINITION.--For purposes of this subsection, the term 'major consequence violation' means a violation that contributed to an incident resulting in any of the following:

"(A) One or more deaths.

"(B) One or more injuries or illnesses requiring hospitalization.

"(C) Environmental harm exceeding \$250,000 in estimated damage to the environment including property loss.

"(D) A release of gas or hazardous liquids that ignites or otherwise presents a safety threat to the public or presents a threat to the environment in an area identified under section 60109(a) of this title and defined in parts 192 and 195 of title 49, Code of Federal Regulations."

(b) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.--Section 60118(e) is amended by adding at the end the following: "The Secretary may impose a civil penalty under section 60122 of this title on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under this chapter."

(c) NON-APPLICABILITY OF ADMINISTRATIVE PENALTY CAPS.--Section 60120(a)(1) is amended by adding at the end the following: "The maximum amount of civil penalties for administrative enforcement actions under section 60122 of this title shall not apply to enforcement actions under this section."

(d) JUDICIAL REVIEW OF ADMINISTRATIVE ENFORCEMENT ORDERS.--Section 60119(a) is amended by--

(1) striking the catchline and substituting the following:

"REVIEW OF REGULATIONS, ORDERS, AND OTHER FINAL AGENCY ACTIONS.--"; and

(2) striking the words "about an application for a waiver under section 60118(c) or (d) of" and inserting in their place the word "under".

SEC. 203. CLARIFICATIONS.

(a) AMENDMENT OF PROCEDURES CLARIFICATION.--Section 60108(a)(1) is amended by striking the words "an intrastate" and inserting in their place the word "a".

(b) OWNER OPERATOR CLARIFICATION.--Section 60102(a)(2)(A) is amended by striking the words "owners and operators" and inserting in their place the words "any or all of the owners or operators".

(c) ONE CALL ENFORCEMENT CLARIFICATION.--Section 60114(f) is amended by adding at the end the following: "This limitation shall not apply to proceedings against persons who are pipeline operators."

SEC. 204. PIPELINE INFRASTRUCTURE DATA COLLECTION.

Section 60132(a) is amended by adding at the end the following:

"(4) Any other geospatial, technical, or other pipeline data, including design and material specifications, that the Secretary determines is necessary to carry out the purposes of this chapter, including pre-construction design reviews and compliance inspection prioritization. The Secretary shall give reasonable notice to operators that the data are being requested."

SEC. 205. INTERNATIONAL COOPERATION AND CONSULTATION.

Section 60117 is amended by adding at the end a new subsection (o) to read as follows:

"(o) INTERNATIONAL COOPERATION AND CONSULTATION.--

"(1) INFORMATION EXCHANGE AND TECHNICAL ASSISTANCE.--

If the Secretary of Transportation determines that it would benefit the United States, subject to guidance from the Secretary of State, the Secretary may engage in activities supporting cooperative international efforts to share information about the risks to the public and the environment from pipelines and means of protecting against those risks. Cooperation may include the exchange of information with domestic and appropriate international organizations to facilitate efforts to develop and improve safety standards and requirements for pipeline transportation in or affecting interstate or foreign commerce.

"(2) CONSULTATION.--To the extent practicable, subject to guidance from the Secretary of State, the Secretary may consult with interested authorities in Canada, Mexico, and other interested authorities to ensure that the respective pipeline safety standards and requirements prescribed by the Secretary and those prescribed by such authorities are consistent with the safe and reliable operation of cross-border pipelines.

"(3) DIFFERENCES IN INTERNATIONAL STANDARDS AND REQUIREMENTS.--Nothing in this section requires that a standard or requirement prescribed by the Secretary under this chapter be identical to a standard or requirement adopted by an international authority."

SEC. 206. GAS AND HAZARDOUS LIQUID GATHERING LINES.

(a) **REMOVAL OF STATUTORY EXCLUSION FOR GAS GATHERING LINES.**--Section 60101(a)(21) is revised to read as follows:

"(21) 'transporting gas' means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in interstate or foreign commerce."

(b) **REMOVAL OF THE STATUTORY EXCLUSION FOR HAZARDOUS LIQUID GATHERING LINES.**--Section 60101(a)(22)(B) is amended by striking subparagraph (i) and redesignating subparagraphs (ii) and (iii) as (i) and (ii), respectively.

(c) **REGULATORY EXEMPTIONS.**--Section 60101(b) is revised to read as follows:

"(b) **REGULATORY TREATMENT OF GATHERING LINES.**--

"(1) **IN GENERAL.**--Not later than 24 months after the date of the enactment of the Pipeline and Hazardous Materials Transportation Safety Reauthorization Act of 2011, the Secretary shall complete a review of all existing regulatory exemptions for gas and hazardous liquid gathering lines. Based on this review and consistent with the purposes of this chapter, the Secretary shall eliminate exemptions as the Secretary determines appropriate.

"(2) **DATA COLLECTION.**--The Secretary may collect geospatial, technical, or other pipeline data on any gathering line, including unregulated gathering lines.

"(3) **LIMITATION.**--Nothing in this section authorizes the Secretary to regulate pipelines located on the grounds of a production facility."

SEC. 207. TRANSPORTATION-RELATED OIL FLOW LINES.

Section 60102 is amended by adding at the end the following:

"(n) **TRANSPORTATION-RELATED OIL FLOW LINES.**--

"(1) **DATA COLLECTION.**--The Secretary may collect geospatial, technical, or other pipeline data on transportation-related oil flow lines, including unregulated transportation-related oil flow lines.

"(2) **DEFINITION.**--For purposes of this subsection, the term 'transportation-related oil flow line' means a pipeline transporting oil off of the grounds of the production facility where it originated across areas not owned by the producer regardless of the extent to which the oil has been processed, if at all.

"(3) **LIMITATION.**--Nothing in this subsection authorizes the Secretary to prescribe standards for the movement of oil through production, refining, or manufacturing facilities, or through oil production flow lines located on the grounds of production facilities."

**SEC. 208. NATURAL GAS PIPELINE PROJECT REVIEW
AND COST RECOVERY.**

(a) IN GENERAL.--Chapter 601 is amended by adding at the end the following:

"Sec. 60138. Natural gas pipeline project review and cost recovery

"(a) **COST RECOVERY FOR DESIGN AND CONSTRUCTION REVIEWS.**--If the Secretary of Transportation conducts facility design safety reviews, consulting, or field work in connection with a proposal to construct, expand, or operate a pipeline project authorized pursuant to 15 U.S.C. §§ 720 et seq, including construction inspection and oversight, the Secretary may require the person or entity proposing the project to pay the costs incurred by the Secretary. If the Secretary exercises the cost recovery authority described in this section, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this section. This authority is in addition to the authority provided in section 60301 of this title.

"(b) **NOTIFICATION.**--For any new pipeline project described in subsection (a) of this section in which the Secretary will conduct design reviews, the person or entity proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction.

"(c) **ESTABLISHMENT AND USE.**--There is established a Pipeline Safety Design Review Fund in the Department of Treasury of the United States. Funds deposited under this section are authorized to be appropriated for the purposes set forth in this chapter. Fees authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations acts."

(b) **CONFORMING AMENDMENT.**--The analysis of Chapter 601 is amended by inserting the following at the end:

"60138. Natural gas pipeline project review and cost recovery."

SEC. 209. COST RECOVERY FOR DESIGN REVIEWS.

Section 60117(n) is amended to read as follows:

"(n) **COST RECOVERY FOR DESIGN REVIEWS.**--

"(1) **IN GENERAL.**--If the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a gas or hazardous liquid pipeline or liquefied natural gas pipeline facility, including construction inspections and oversight, the Secretary may require the person or entity proposing the project to pay the costs incurred by the Secretary relating to

such reviews. If the Secretary exercises the cost recovery authority described in this section, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this section. The Secretary shall not assess or collect costs for such reviews in Alaska under this subsection if the costs are assessed and collected under section 60138(b) of this title. This authority is in addition to the authority provided in section 60301 of this title.

"(2) NOTIFICATION.--For any new pipeline construction project in which the Secretary will conduct design reviews, the person or entity proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction.

"(3) DEPOSIT AND USE.--The Secretary shall deposit funds paid under this subsection into the Pipeline Safety Design Review Fund. Funds deposited under this section are authorized to be appropriated for the purposes set forth in this chapter. Fees authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations acts."

SEC. 210. SPECIAL PERMITS.

(a) IN GENERAL.--Section 60118(c)(1) is amended to read as follows:

"(1) ISSUANCE OF WAIVERS.--

"(A) IN GENERAL.--On application of an owner or operator of a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter with respect to the facility on terms the Secretary considers appropriate, if the Secretary determines that the waiver is not inconsistent with pipeline safety.

"(B) CONSIDERATIONS.--In determining whether to grant a waiver, the Secretary shall consider--

"(i) the fitness of the applicant to conduct the activity authorized by the waiver in a manner that is consistent with pipeline safety;

"(ii) the applicant's compliance history;

"(iii) the applicant's accident history; and

"(iv) any other information the Secretary considers relevant to making the determination.

"(C) EFFECTIVE PERIOD.--A waiver of one or more pipeline operating requirements shall be effective for an initial period of not more than 5 years and may be renewed by the Secretary upon application for successive periods of not more than 5 years each. If the Secretary determines that a waiver of a design or materials requirement is warranted under this section, the Secretary may grant the waiver for any period deemed appropriate by the Secretary.

"(D) PUBLIC NOTICE AND HEARING.--The Secretary may act on a waiver under this section only after public notice and hearing, which may consist of publication of notice in the Federal Register that an application for a waiver has been filed and providing the public with the opportunity to review and comment on the application. If a waiver is granted, the Secretary shall state in the order and associated analysis the reasons for granting it.

"(E) NONCOMPLIANCE AND MODIFICATION, SUSPENSION OR REVOCATION.--After notice to a holder of a waiver and opportunity to show cause, the Secretary may modify, suspend, or revoke a waiver issued under this section for failure to comply with its terms or conditions, intervening changes in federal law, a material change in circumstances affecting safety, including erroneous information in the application, or any other reason. If necessary to avoid a significant risk of harm to persons, property, or the environment, the Secretary may waive the show cause procedure and make the action immediately effective."

(b) FEES.--Section 60118(c)(3) is amended to read as follows:

"(3) FEES.--

"(A) IN GENERAL.--The Secretary shall establish reasonable fees for processing waiver applications that are based on the costs of providing these activities. The fees may include a basic filing fee, as well as fees to recover the costs of technical studies or environmental analysis for special permit applications. The Secretary shall prescribe procedures to collect fees under this section. This authority is in addition to the authority provided in section 60301 of this title.

"(B) ESTABLISHMENT AND USE.--There is established a Pipeline Safety Special Permit Fund in the Department of Treasury of the United States. Funds deposited under this section are authorized to be appropriated for the purposes set forth in this Chapter. Fees authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations acts."

SEC. 211. CLASS LOCATION AND INTEGRITY MANAGEMENT.

The Secretary shall review the effectiveness of the existing regulatory requirements for class location of gas pipelines to determine whether class location requirements should be modified or superseded by risk management regulations that allow full use of the latest technologies. In connection with this review, the Secretary shall evaluate whether the integrity management program requirements that apply to gas and hazardous liquid pipeline facilities located in areas identified under section 60109(a) of title 49, United States Code, and defined in parts 192 and 195 of title 49, Code of Federal Regulations, should apply to additional areas or entire pipelines. With respect to gas pipeline facilities, the Secretary shall evaluate whether applying the integrity

management program requirements to additional areas would mitigate the need for class location requirements. The Secretary shall post on a publicly-accessible web site the results of this review.

SEC. 212. BIOFUEL PIPELINES.

Section 60101(a)(4) is amended by--

- (1) striking the word "and" at the end of subparagraph (A);
- (2) redesignating subparagraph (B) as subparagraph (C); and
- (3) inserting a new subparagraph (B) after subparagraph (A) to read as

follows:

"(B) non-petroleum fuels, including biofuels that are flammable, toxic, corrosive or would be harmful to the environment if released in significant quantities; and".

SEC. 213. CARBON DIOXIDE PIPELINES.

Section 60102(i) is amended to read as follows:

"(i) PIPELINES TRANSPORTING CARBON DIOXIDE.--The Secretary shall prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in either a liquid or gaseous state.".

SEC. 214. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS TRANSPORTED BY PIPELINE.

The Secretary may conduct an analysis of the transportation of non-petroleum hazardous liquids by pipeline for the purpose of identifying the extent to which pipelines are currently being used to transport non-petroleum hazardous liquids, such as chlorine, from chemical production facilities across land areas not owned by the producer that are accessible to the public. The analysis should identify the extent to which the safety of the lines is unregulated by the States and evaluate whether the transportation of such chemicals by pipeline across areas accessible to the public would present significant risks to public safety, property, or the environment in the absence of regulation. The Secretary shall post on a publicly accessible web site the results of the analysis.

SEC. 215. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.--Section 60125(a)(1) is amended by striking subparagraphs (A)-(D) and inserting in their place the following:

"(A) for fiscal year 2012, \$98,354,000, of which \$5,772,000 is for carrying out section 12 of the Pipeline Safety Improvement Act of 2002

(P.L. 107-355) (49 U.S.C. 60101 note) and \$37,143,000 is for making grants;

- "(B) for fiscal year 2013, such sums as may be necessary;
- "(C) for fiscal year 2014, such sums as may be necessary;
- "(D) for fiscal year 2015, such sums as may be necessary;
- "(E) for fiscal year 2016, such sums as may be necessary; and
- "(F) for fiscal year 2017, such sums as may be necessary."

(b) **TRUST FUND AMOUNTS.**--Section 60125(a)(2) is amended by striking subparagraphs (A)-(D) and inserting in their place the following:

"(A) for fiscal year 2012, \$21,510,000 of which \$1,182,000 is for carrying out section 12 of the Pipeline Safety Improvement Act of 2002 (P.L. 107-355) (49 U.S.C. 60101 note) and \$7,608,000 is for making grants;

- "(B) for fiscal year 2013, such sums as may be necessary;
- "(C) for fiscal year 2014, such sums as may be necessary;
- "(D) for fiscal year 2015, such sums as may be necessary;
- "(E) for fiscal year 2016, such sums as may be necessary; and
- "(F) for fiscal year 2017, such sums as may be necessary."

(c) **EMERGENCY RESPONSE GRANTS.**--Section 60125(b)(2) is amended by striking "2007 through 2010" and inserting "2012 through 2017".

(d) **ONE-CALL GRANTS.**--Section 6107 is amended as follows:

- (1) Subsection (a) is amended by striking "fiscal years 2007 through 2010" and inserting "fiscal years 2012 through 2017".
- (2) Subsection (b) is amended by striking "for fiscal years 2007 through 2010" and inserting "for fiscal years 2012 through 2017".
- (3) Subsection (c) is deleted.

(e) **STATE DAMAGE-PREVENTION PROGRAM.**--Section 60134 is amended by adding the following at the end:

"(i) **AUTHORIZATION OF APPROPRIATIONS.**--There are authorized to be appropriated to the Secretary to provide grants under this section \$1,538,000 for each of fiscal years 2012 through 2017. The funds shall remain available until expended."

(f) **TECHNICAL ASSISTANCE GRANTS.**--Section 60130(d) is amended by striking the words "2003 through 2010" and inserting in their place "2012 through 2017".

(g) **PIPELINE INTEGRITY, SAFETY, AND RELIABILITY RESEARCH AND DEVELOPMENT.**--Section 12(f) of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107-355), is amended by striking the words "fiscal years 2003 through 2006" and inserting in their place "fiscal years 2007-2017".

SECTION-BY-SECTION ANALYSIS

Title I--Hazardous Material Transportation Safety

SECTION 101. SHORT TITLE.

This section provides that the Act may be cited as the "Hazardous Material Transportation Safety Act of 2011," and references Title 49, United States Code.

SECTION 102. CIVIL PENALTY.

Section 5123 is amended to increase the statutory maximum for a civil penalty from \$50,000 to \$100,000 for each violation. For violations that result in death, serious illness, or severe injury, the penalty is increased from not more than \$100,000 to not more than \$250,000. Additionally, Section 5123 is amended to clarify the Secretary's authority to impose a penalty on a person who obstructs an inspection or investigation authorized by this chapter such as failure to allow entry or access to a facility. The provision imposes a prohibition on hazardous materials operations for nonpayment of penalties assessed under this chapter.

SECTION 103. REPORTING OF FEES.

The reporting requirement in section 5125 that a State, political subdivision or Indian tribe that levies a fee must report on various aspects of the fee to the Secretary is changed from "upon the Secretary's request" to a biennial cycle.

SECTION 104. HAZARDOUS MATERIAL ENFORCEMENT TRAINING PROGRAM.

New Section 5129 grants the Secretary authority to establish a hazardous materials enforcement training program to develop qualification guidelines, best practices and standards for hazardous materials investigator training building upon current training programs already developed by the modes; collect, analyze, and publish findings from incident investigations; and develop standard protocols for coordinating joint enforcement efforts among Federal, State, and local jurisdictions. The program would establish investigator qualification and training guidelines based on PHMSA's expertise in the area of hazardous materials packagings in order to ensure that regulated entities are complying with hazardous materials packaging regulations. The program will be multimodal in scope and as such, it will be mandatory for the Department's multimodal hazardous material inspectors and investigators. The program will also be mandatory for State employees who conduct federally funded compliance reviews, inspections or investigations. Additionally, the Secretary may make the standards, protocols, and findings of the training program available to other Federal, State, and local enforcement officials.

There is a deficiency in the amount of training available to investigators who enforce the hazardous materials packaging requirements. Packaging is a function area shared by all agencies and operations that are responsible for the safe transportation, handling, or storage of hazardous materials. The program would address the training deficiency by offering specific training materials to educate and guide PHMSA's government partners in this area. It would allow and

offer federal, state, and local enforcement officials to enhance their understanding of the techniques used to inspect, test, verify, and validate hazardous materials package manufacturing, testing, requalification, certification, use and shipment preparation. The program would offer a uniform level of training and ensure a consistent understanding of PHMSA's enforcement program on packaging that would foster similar programs at the state and local level. A unilateral understanding of hazardous materials packaging requirements is vital to the development of effective and flexible agreements between enforcement officials at all levels of government. In addition, it would reduce industry burden by eliminating unnecessary and duplicative enforcement actions.

SECTION 105. PAPERLESS HAZARD COMMUNICATIONS PROGRAM.

Section 5111 is amended to grant the Secretary the authority to assess current technological capability and, based on that assessment, institute a paperless hazard communication program. The program must consider technologies that allow shippers to exchange hazardous materials shipping information electronically with carriers, emergency responders, and enforcement personnel among fixed facilities, mobile platforms, and wireless devices. Furthermore, since the transportation of hazardous materials may utilize a single or multiple modal carriers while in the transportation stream, it shall be necessary to consult with the appropriate modal agencies in the development and implementation of the program. The paperless hazard communications program will enhance the effectiveness of communications during transportation incidents involving hazardous materials.

SECTION 106. PLANNING AND TRAINING GRANTS, MONITORING, AND REVIEW.

The reporting requirement in Section 5116 is changed from annually to "as appropriate". Also, the cap on use of the funds for administrative expenses is raised from two (2) to four (4) percent.

SECTION 107. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.

Section 5117 is amended to better define the process and procedures used to manage the special permits, approvals, and exclusions program. It authorizes the Secretary, under procedures prescribed by regulation, to issue, modify, or terminate a special permit. It directs the Secretary to establish the criteria used to make an assessment of an equivalent level of safety and the process for evaluating the fitness of applicants and their safety performance.; Compliance audits and oversight of special permit and approval holders are increased, and accountability of those operating under the terms of special permits and approvals is enhanced. An assessment of the need to modernize the information technology (IT) system that supports the program will be conducted. Additionally, the Secretary may modify, suspend, or terminate a special permit or approval for noncompliance, such as failure to register, pay a civil penalty, comply with an order, or meet security requirements. Finally, it authorizes the Secretary to collect a reasonable fee for administration of the special permits and approvals programs. The Secretary, after

providing notice and an opportunity for public comment, shall issue regulations to implement the new process and procedures.

SECTION 108. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT, RESEARCH AND DEVELOPMENT, AND ANALYSIS PROGRAM.

Section 5118 is amended to authorize the Secretary to develop and implement a technical assessment, research and development, and analysis program aimed at reducing the risk associated with the transportation of hazardous materials and identifying new technologies and methods for facilitating the safe, secure, and efficient transportation of hazardous materials. Research activities under this program will focus on high-risk hazardous materials transportation concerns identified by the National Transportation Safety Board or through Department initiatives (cargo tank rollovers, safe loading and unloading, wetlines, lithium batteries). In carrying out this section, the Secretary may work cooperatively with stakeholders.

SECTION 109. ADMINISTRATIVE.

Section 5121 is amended to clearly indicate that a designated officer, employee, or agent of the Secretary has the authority to take enforcement action on a person who violates the regulations for the safe transportation, including security, of hazardous materials in commerce. As a result of this change any person who prepares or accepts a hazardous material for transportation in commerce is subject to enforcement action by the Department. This applies to pre-transportation functions even if the materials have not yet been provided to the carrier for transport in commerce. Ensuring that our investigators have the ability to mitigate unsafe conditions at ground level, before dangerous shipments enter the transportation system is a proactive approach to transportation safety.

SECTION 110. AUTHORIZATION OF APPROPRIATIONS.

This section is revised to reflect the authorization of appropriations for Fiscal Years 2012 through 2017.

SECTION-BY-SECTION ANALYSIS

Title II--Pipeline Safety Program

SEC. 201. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE

This section provides that the Act may be cited as the "Strengthening Pipeline Safety and Enforcement Act of 2011," and references Title 49, United States Code.

SEC. 202. CIVIL PENALTIES.

This section amends section 60122(a) to provide for increased administrative civil penalties for violations involving deaths, injuries, and major environmental damage. For these types of violations, it increases the caps from \$100,000 per violation day/\$1,000,000 series to \$250,000 per violation day/\$2,500,000 series. The maximum penalties for violations of the pipeline safety requirements have not been increased in almost 10 years. Adequate levels of penalties are necessary to achieve deterrence goals, particularly in cases involving injuries, fatalities, or substantial environmental damage. This section also amends section 60120(a) to confirm that the section 60122 caps on administrative civil penalties do not apply to judicial actions under section 60120. It would also clarify that civil penalties are applicable to obstruction of an investigation. Finally, this section adds the availability of judicial review of final enforcement orders in the Courts of Appeals. Judicial review in the Court of Appeals is preferable because it would be consistent with current judicial review of pipeline rulemakings and other orders and the 89 day period would provide certainty to pipeline operators about the filing deadline.

SEC. 203. CLARIFICATIONS.

This section: (1) removes the word "intrastate" from the first sentence of section 60108(a) to clarify that PHMSA's authority to require operators to amend operating plans and procedures is not limited to intrastate pipeline facilities; (2) clarifies that PHMSA's authority for purposes of enforcement is not limited to an entity that is both the owner and operator of a pipeline; and (3) clarifies that the limitation on enforcement against excavators until the specified prerequisites are completed does not apply to pipeline operators.

SEC. 204. PIPELINE INFRASTRUCTURE DATA COLLECTION.

This section amends section 60132 to include additional geospatial pipeline data not currently being collected via the National Pipeline Mapping System on existing pipelines and expand collection of design information on new pipeline construction projects. Geospatially accurate pipeline infrastructure data is critical to PHMSA's ability to perform its regulatory and oversight functions. PHMSA needs to be able to collect all necessary information beginning with the proposed construction phase to ensure that regulatory actions are taken where incident data shows they are needed.

SEC. 205. INTERNATIONAL COOPERATION AND CONSULTATION.

This section amends section 60117 to authorize PHMSA to engage in activities supporting efforts to exchange expertise on pipeline safety with other governments. The proposal would allow PHMSA to obtain expertise from counterpart pipeline safety agencies in other governments, and consult on the safety of cross-border pipeline operations with Canada and Mexico.

SEC. 206. GAS AND HAZARDOUS LIQUID GATHERING LINES.

This section amends section 60101(b) to eliminate the statutory exemptions for both gas and hazardous liquid gathering lines. It would facilitate the closing of regulatory gaps by requiring a review of the existing regulatory exemptions within two years of this proposal becoming law. It also includes express provision requiring PHMSA to collect data on unregulated gathering lines in the interim. Significant spills and incidents have occurred on gathering lines and this proposal would be consistent with PHMSA's longstanding effort to capture the remaining pipeline mileage that is unregulated. Production facilities would remain non-jurisdictional.

SEC. 207. TRANSPORTATION-RELATED OIL FLOW LINES.

This section amends sections 60101 and 60102 to authorize PHMSA to collect information on onshore transportation-related oil flow lines regardless of whether they are currently regulated to determine whether there is any need for future regulation. A number of spills have occurred on (unregulated) onshore transportation-related oil flow lines and PHMSA needs to better understand the extent and condition of these lines. The operation of oil flow pipeline systems can impact the safety and reliability of downstream lines. Production-related oil flow lines would remain non-jurisdictional.

SEC. 208. NATURAL GAS PIPELINE PROJECT REVIEW AND COST RECOVERY.

This section provides PHMSA the ability to recover costs associated with the review of natural gas pipeline projects pursuant to 15 U.S.C. 720. PHMSA will have significant responsibilities regarding anticipated natural gas pipeline projects as defined in section 102 (15 U.S.C. 720) or 108 (15 U.S.C. 720f) of P.L. 108-324, Division C. Such cost recovery will ensure that the operator(s) involved incur the appropriate costs.

SEC. 209. COST RECOVERY FOR DESIGN REVIEWS.

This section amends section 60117(n) to authorize PHMSA to receive compensation from project applicants for design review, consulting, and field support that the agency performs for new pipeline construction projects over 10 miles in length. It includes a requirement for project applicants to notify PHMSA at least 120 days before construction is scheduled to begin. Currently through user fees, all pipeline operators share the expenses associated with time-consuming design reviews conducted by PHMSA for pipeline project applicants. The proposal

would place the associated financial burden on the applicant who stands to realize the benefits from the proposed project.

SEC. 210. SPECIAL PERMITS.

This section amends section 60118 to set forth general requirements for special permits to ensure they are not issued to operators with poor safety records. It would also authorize a filing fee for special permit applications; and authorize PHMSA to receive compensation for technical studies or environmental analysis from special permit applicants. The applicant who stands to benefit from the project should pay for this service.

SEC. 211. CLASS LOCATION AND INTEGRITY MANAGEMENT.

This section authorizes a review of current rules to determine whether class location requirements should be revised or phased out in favor of more sophisticated risk-based approaches for gas pipelines. This would include a review to determine whether risk management principles should now be applied beyond high consequence areas to entire pipelines. The goal of prioritizing high consequence area (HCA) mileage has largely been achieved since baseline assessments and repairs have largely been completed. In addition, class location may not be the most effective mechanism for risk ranking. Therefore, PHMSA needs to determine whether risk management principles should now be applied to entire pipelines and if so whether it would mitigate the need for class location requirements.

SEC. 212. BIOFUEL PIPELINES.

This section amends section 60101(a)(4) to expressly include all biofuels. While ethanol and other biofuels that are only transported in a form blended with petroleum products are jurisdictional, it is not clear that certain pure biofuels that are not blended with petroleum products are. This will potentially be an issue with B100 (biodiesel) which some argue is non-toxic and non-flammable. It is the intent of this section to clarify that all biofuels transported by pipeline are subject to transportation safety regulations.

SEC. 213. CARBON DIOXIDE PIPELINES.

This section amends section 60102(i) to include carbon dioxide transported as a gas. While carbon dioxide transported in a supercritical fluid state is currently regulated as a hazardous liquid, carbon dioxide transported as a gas is not. New clean energy carbon sequestration projects may involve pipelines transporting carbon dioxide as a gas.

SEC. 214. STUDY OF NON-PETROLEUM HAZARDOUS LIQUIDS TRANSPORTED BY PIPELINE.

This section authorizes a study on the extent to which pipelines are currently being used to transport non-petroleum hazardous liquids (e.g., chlorine). Currently anhydrous ammonia

pipelines and liquid carbon dioxide pipelines are the only non-petroleum lines that are regulated by PHMSA. To date, any such lines are thought to be relatively short lines located entirely on the grounds of chemical plants and refineries, but the potential existence of longer lines that leave the grounds of such facilities is not well understood.

SEC. 215. AUTHORIZATION OF APPROPRIATIONS.

This section authorizes appropriations for Fiscal Years 2012 through 2017.